IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 4683 of 2007

LR OF MADAN LAL
V/S
STATE & ORS.

Mr. NS ACHARYA, for the appellant / petitioner

Date of Order : 7.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

By the impugned order, the learned trial Court has declined the prayer of the petitioner to lead secondary evidence by considering circumstances comprehended by Section 65(c) of the Evidence Act, while the learned counsel for the petitioner submits that his case is covered by Section 65 Clause (b), inasmuch as, in the written-statement the existence condition and contents of the documents has been admitted. In my view, in view of the further language of Section 65, in the cases covered by Clause (b), such written admission is admissible in evidence. In the present case, the admission is said to be contained in the written-statement itself. In such circumstances, it is always open to the petitioner to rely upon the contents of the written-statement, where this admission exist. However, other evidence can be allowed to be led by the petitioner to prove the document by way of secondary evidence.

The writ petition is accordingly, disposed of.

(N P GUPTA),J.

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